



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]

DECISION

BCS/142359

PRELIMINARY RECITALS

Pursuant to a petition filed July 16, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on September 18, 2012, at Racine, Wisconsin.

The issue for determination is whether the agency correctly determined petitioner's MA benefits, specifically BadgerCare Plus (BC+) effective July 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 65 1
Madison, Wisconsin 53703

By: Kathy Christman

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner resides with her son. They were eligible for BC+ with no premium until the action at issue in this appeal.

3. On May 29, 2012 petitioner provided verification of her earned income to the agency.
4. On May 31, 2012 the agency issued a notice of decision to petitioner stating that effective July 1, 2012 she would no longer be eligible for BC+ due to being over the income limit, and her son would have to pay a \$10 premium to remain eligible for BC+. Exhibit 8.
5. Effective July 1, 2012, BC+ eligibility was based upon a change in Department policy.
6. Petitioner's monthly household income is \$2,899.24.

DISCUSSION

The 2011-13 Wisconsin State Budget, Act 32, required the Department to pursue eligibility changes to the Medicaid program. In order to comply with Wisconsin law and make the necessary eligibility changes, Wisconsin requested changes to its current BC+ waivers for families and childless adults. The Centers for Medicare and Medicaid Services (CMS) approved changes to BC+ policy which include premium reforms, Restrictive Re-enrollment (RRP) reforms, changes to the policy regarding access to health insurance and changes to the back dating policy. See *BEPS/DFS Operations Memo no. 12-27*, dated June 1, 2012, page 1, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2012/pdf/12-27.pdf>.

Effective with July, 2012 BC+ benefits, the Department began to use a sliding scale for determining premiums for non-pregnant, non-disabled adults with income over 133% of the Federal Poverty Limit (FPL). Under the old policy adults did not pay premiums unless income was over 150% of the FPL. See *BEPS/DFS Operations Memo no. 12-25*, dated April 27, 2012, page 2, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2012/pdf/12-25.pdf>. This is seemingly where petitioner's confusion came into play, having received a letter notifying her of this impending change which notified her of the sliding scale for premiums for *certain* adults. However, the income limit for BC+ for parents such as petitioner has been, and is 200%, of the FPL. See *BC+ Handbook*, §§1.1 and 16.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

Petitioner's undisputed household income totals \$2,899.24. 200% of the FPL for a two-person household is \$2,521.67. See *BC+ Handbook*, §50.1. Therefore she is over the 200% FPL. Unless exempt, children in families with income over 200% of the FPL must pay a premium to become or remain eligible for BC+. See *BC+ Handbook*, §19.1. Based upon the policy, the agency correctly determined a \$10 premium for her son based upon the household monthly income.

There are no other exceptions that I could find that would show me that petitioner is somehow exempt from the 200% FPL, from paying the premium for her son, or that it could be changed based on fairness. I certainly understand that affording the premium and insurance for herself can be difficult, and even impossible. However, administrative law judges do not have the power to address issues of equity. We are required to apply the law as written by the legislators.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's MA household benefits, specifically BC+, effective July 1, 2012.

THEREFORE, it is

ORDERED

That the petition for review herein be dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

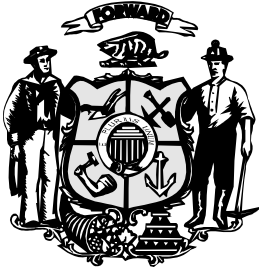
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of October, 2012

Kelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals

c: Department of Health Services - email
Racine County Department of Human Services, email - Racine County



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The preceding decision was sent to the following parties on October 22, 2012.

Racine County Department of Human Services
Division of Health Care Access and Accountability